

REMARKS

Claims 1, 19, 20, 22-24, and 29-30 remain in the application with claims 1 and 19 in independent form. Claims 1 and 19 have been amended and claim 30 has been newly added.

In accordance with MPEP 2163.06, "...information contained in *any one* of the specification, claims or drawings of the application as filed *may be added to any other part* of the application without introducing new matter" (emphasis added). Applicants adds Figures 1-3 submitted herewith at Exhibit A. The support for the Figures can be found at the following in the specification as originally filed: Page 1, lines 20-34; Page 4, lines 43-47, Page 5, lines 1-5; Page 9, lines 4-16; Page 9, lines 22-27; Page 10, lines 14-36; and the example section. The subject application is directed toward a composite damping element received in one of a transverse, longitudinal, or triangular link, a rear-axle subframe, a stabilizer, a spring-strut support, and a shock-absorber capable of replacing rubber-metal damping composites. The damping element is preferably a bearing as would be appreciated by those skilled in the art. As described in the examples, see page 10, lines 14-18, a thermoplastic polyurethane (TPU) element was placed in a mold and a microcellular polyurethane was produced in direct contact with the TPU to form the damping element. Those skilled in the art, upon reading the subject application, specifically page 9, lines 4-9, would appreciate that the Figures illustrate examples of possible damping elements to be used as described in the specification as originally filed. Accordingly, it is believed that no new matter is being introduced in any of the Figures.

Claims 1, 9, 14, 19, 20, 22-24, and 27-29 stand rejected under 35 U.S.C. §103 as being unpatentable over Zeitler et al. (United States Patent Number 5,288,549) in view of Krech et al.

(United States Patent Number 6,063,824) and Unchida et al. (United States Patent Number 5,061,778).

The Examiner states that Zeitler is directed toward a composite element used to form dashboards having a top layer A and a base layer B and that the base layer B reads on the molding of the subject invention. The Examiner further states that Krech teaches a microcellular polyurethane elastomer useful in shock and vibration damping systems in the automobile sector and relies on Unchida for the motivation to make dashboards out of noise and vibration damping materials. Accordingly, the Examiner concludes that because Zeitler is directed to the production of dashboards, it would be obvious to use a microcellular elastic polyurethane material, as disclosed in Krech, as the top layer A in the composite element of Zeitler, motivated by the desire to make a dashboard with improved damping properties and excellent volume compressibility. The Examiner believes the claims do not call out specific structural elements and thus suggests the dashboard of Zeitler is a damping element.

Rejection of a claim under 35 U.S.C. § 103(a) based on a combination of references requires that there be some teaching or motivation found within the references themselves that would lead one of ordinary skill in the art to combine the references and, furthermore, that once combined the references must either disclose each and every limitation of the claim or make obvious any such limitations not disclosed. Absent a teaching or motivation within the references themselves for combining the references it is improper for the Examiner to combine the references. *In re: Sang Su Lee*, 277 F.3d 1338 (Fed. Cir. 2002), citing *Brown & Williamson Tobacco Corp. v. Phillip Morris, Inc.*, 229 F.3d 1120, 1124-25 (Fed. Cir. 2000).

Independent claims 1 and 19 have been amended to claim a composite damping element received in one of a transverse link, a rear-axle subframe, a stabilizer, a longitudinal link, a spring-strut support, a shock-absorber, and a triangular link. Also, the composite damping element replaces rubber-metal composites that are used in these specific automotive damping devices. The microcellular layer replaces the rubber portion of the prior art and the molding replaces the metal element of the prior art. The molding allows for attachment of the composite damping element to be positioned relative to these various damping devices.

Zeitler is directed towards use of the composite element in dashboards that are not to be continuously and repeatedly compressed. The composite element dashboard is located in the interior of the passenger compartment. The cellular polyurethane acts as a noise damping element to reduce noise from the engine and as a cushioning element in the rare instance when a force is exerted against the surface of the dashboard. The molding, or skin, in Zeitler improves the dashboard's aesthetic properties and encloses the cellular polyurethane to conceal it from the occupant. The skin is not used to allow the dashboard to be attached in the interior of the passenger compartment.

Whereas, in Krech et al., the microcellular polyurethane elastomers are used as damping elements in the vibration and shock damping systems. The damping element is to be compressed repeatedly without losing any of the damping properties and can be used to replace rubber elements in shock damping systems. Krech et al. however provides no disclosure of a thermoplastic molding being attached to the elastomer as in the subject invention. The thermoplastic molding allows the subject invention to replace rubber metal components of the prior art.

The Examiner relies on Uchida et al. to take official notice that dashboards are made of vibration damping material and that Zeitler is directed towards the production of dashboards. Therefore, it would have been obvious to use the polyurethane material of Krech as a layer in Zeitler compositions to make a dashboard with improved damping properties. However, the type of noise and vibration being dampened by the dashboard is not the equivalent type of shock and vibration being dampened by the subject invention and the base layer in the dashboard does not serve the purpose of the molding in the subject invention. Dashboards are non-analogous art when compared to running gears and bearings of an engine. See MPEP 2141.01(a) Analogous and Non-Analogous Art and also *In re Oetiker* 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Therefore, the Examiner improperly relies on Uchida as a basis for the motivation in the §103 rejection.

In order to improve the usefulness of the damping element, the subject invention is a composite damping element having both the molding and the microcellular layer. The molding serves to attach the elastomer damping element relative to and in one of a transverse link, a rear-axle subframe, a stabilizer, a longitudinal link, a spring-strut support, a shock-absorber, and triangular link. It would not be obvious to combine a base layer of an interior dashboard with an element in a shock or vibration damping system. The type of noise and vibration being dampened by the dashboard is not the equivalent type of shock and vibration being dampened by the subject invention and the base layer in the dashboard does not serve the purpose of the molding in the subject invention.

Therefore, there is no motivation to combine these references. The dashboard is directed to preventing engine noise from being heard by the occupants and serves as a secondary

cushioning element, if necessary. The microcellular damping element is continuously and repeatedly compressed in a shock or vibration damping system. Noise and vibration damping is not equivalent to shock and vibration damping, nor is it an obvious variation. One skilled in the art of shock and vibration damping systems for the running gear of an engine would not look to interior dashboard systems. They serve different and non-obvious purposes than the subject invention. Accordingly, the 35 U.S.C. §103 rejection is believed to be overcome. Further, dependent claims 20, 22-24, which depend from claim 19, and dependent claims 29 and 30, which depend from independent claim 1, and are also believed to be allowable.

Applicants' attorney respectfully submits that the claims as amended are now in condition for allowance and respectfully requests such allowance.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS

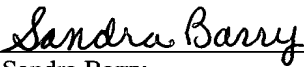


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